

EXHIBIT C



FEMA

Fact Sheet

PUBLIC ASSISTANCE: PRIVATE PROPERTY DEBRIS REMOVAL

The Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program provides supplemental assistance to states, territories, tribal, and local governments, as well as certain private nonprofit organizations (herein referred to as Applicants). FEMA's [*Public Assistance Program and Policy Guide*](#) (PAPPG) provides comprehensive information regarding FEMA assistance and the requirements that Applicants must meet in order to receive assistance. The purpose of this Fact Sheet is to provide clarifying guidance for private property debris removal (PPDR) requirements based on the type of private property. Guidance provided below will be reflected in the next scheduled update to FEMA's PAPPG.

Approval Process

The Applicant must submit a written request to FEMA identifying the specific properties or areas of properties where PPDR activities will occur. Once the request is submitted, FEMA engages with the Recipient and Applicant to review the request and conduct site inspections. With exception of debris removal from commercial property, the Applicant does not need to wait for FEMA approval to start work. However, for the Applicant to receive PA funding, FEMA must determine that the PPDR work at each property is eligible.

FEMA only approves PA funding for PPDR if the Applicant demonstrates all of the following with sufficient documentation:

1. Legal Authority and Indemnification

FEMA will accept a written statement from an authorized Applicant official that:

- ☐ Certifies that it has legal authority and responsibility to remove debris from private property,
- ☐ Cites all applicable sources of authority (law, ordinance, code, contract, etc.), and
- ☐ Agrees to Indemnify the United States for any claim arising from the debris removal.

2. Public Interest

The Applicant must demonstrate that the PPDR was in the public interest.¹ This includes the basis for the determination that removing the debris from the private property locations requested was in the public's interest. The determination must be made by the state, tribal, territorial, or local government's public health authority or other public entity that has legal authority to make a determination that disaster-generated debris on private property constitutes an immediate threat to life, public health, or safety, or to the economic recovery of the community at large.

FEMA evaluates the submission to determine if it concurs that PPDR is in the public interest and provides a written response specifying any properties or area of properties for which it approves funding for debris removal.

¹ Stafford Act § 407, 42 U.S.C. § 5173; 44 C.F.R. § 206.224(b).

Private Roads

Private roads are those that are not owned by a federal, state, tribal, territorial, or local entity (including orphan roads).

1. Debris Clearance for Emergency Access

Private roads are those that are not owned or operated by, or otherwise the legal responsibility of, a local, tribal, territorial, state, or federal entity. Clearance of private roads, including orphan roads; roads in gated communities; homeowners' association roads; etc. is in the public interest if the debris impairs emergency access by local emergency responders, ambulances, fire, and police. For example, downed trees may be cut and moved off the roadway. Eligible work is limited to that necessary for roads to remain passable but might include removal and disposal during the initial pass as necessary to ensure emergency access. The Applicant is not required to submit documentation demonstrating that debris clearance is in the public interest.

2. Debris Removal

Debris clearance activities that provide emergency access on private roads may be sufficient to eliminate immediate threats to public health and safety. Once clearance activities are complete, additional work to remove and dispose of the debris on private rights-of-way may exceed what is in the public interest. For example, clearance of vegetative debris from the private roads in lightly populated or undeveloped areas may sufficiently eliminate the public health and safety threat. However, if the public has unrestricted access (no locks, gates, or guards) and frequently uses the private road, then removal and disposal of the debris, including debris placed at the curbside by residents, is in the public interest, and the Applicant is not required to submit documentation demonstrating the debris removal is in the public interest. This does not include debris on private driveways or parking lots. It also does not include removal and disposal activities from private roads in areas with restricted access (roads behind locks, gates, or guards) or private roads that are unrestricted but rarely used by the public. The Applicant must provide further documentation to establish that removal is in the public interest in these areas and, though not required, Applicants should consider obtaining approval from FEMA prior to starting removal and disposal.

Residential Property

Debris removal from residential property is usually not in the public interest because the debris does not typically present an immediate health and safety threat to the general public. If the disaster generates debris quantities and/or types of debris on residential property that is so widespread or of such magnitude that it creates an immediate threat to public health and safety, debris removal may be in the public interest. To determine if removal of debris from private residential property is in the public interest, FEMA evaluates the public health determination and will consider:

- Whether the debris is:
 - Located in open areas accessible to the public (e.g., in a yard with no fence barrier next to a public sidewalk)
 - Located in maintained areas
 - Creating a health and safety hazard (such as a rodent infestation);
- Volume of debris;
- Height of debris;
- Number of houses and blocks with large volumes of debris; and
- Amount of the public population affected.

Given these additional considerations, Applicants should consider obtaining approval from FEMA prior to starting work.

Commercial Property (Requires FEMA's Pre-approval)

Removal of debris from commercial properties, such as industrial parks, golf courses, cemeteries, apartments, condominiums, and trailer parks is usually not eligible because commercial enterprises are expected to retain insurance that covers debris removal. In very limited, extraordinary circumstances, FEMA may grant an exception. FEMA must approve the work prior to the Applicant removing the debris.

Other Considerations

1. Duplication of Benefits

The Applicant should work with private property owners to pursue and recover insurance proceeds and credit FEMA the Federal share of any insurance proceeds received. In some circumstances, FEMA may provide assistance to individuals for debris removal through FEMA's Individual Assistance (IA) program. Consequently, FEMA PA staff coordinate closely with IA staff to ensure FEMA does not fund the same work under both programs.

2. Environmental Considerations for Debris Removal

Although debris removal is usually statutorily excluded² from the National Environmental Policy Act review, FEMA must ensure compliance with other federal laws, regulations, and Executive Orders prior to funding the work. Accordingly, FEMA must ensure that the Applicant's debris removal operations avoid impacts to such resources as floodplains, wetlands, federally listed threatened and endangered species and their critical habitats, and historic properties (including maritime or underwater archaeological resources if waterways are impacted). The Applicant must stage debris at a safe distance from property boundaries, surface water, floodplains, wetlands, structures, wells, and septic tanks with leach fields. Additional coordination may be necessary for debris removal from waterways, stump removal, and use of fill.

The Applicant should contact applicable federal, state, and tribal regulatory agencies to ensure compliance with requirements and permits for debris-related operations. Upon completion of debris removal and disposal, site remediation may be necessary at staging sites and other impacted areas.

For more information on environmental and historic preservation compliance associated with debris removal, please refer to the [*Environmental and Historic Preservation \(EHP\) Fact Sheet: Debris Removal Activities*](#) as well as the PAPPG.

² Stafford Act § 316, 41 U.S.C. § 5159.